

(b) *Except as otherwise provided by law, an application for a protective order is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date of service of notice of the application or the date of the hearing on the application, whichever date is sooner.*

(c) *Except as otherwise provided by law, an application requesting the issuance of a temporary ex parte order under Chapter 83 is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date that the court or law enforcement informs the respondent of the court's order.*

SECTION 3. Chapter 102, Family Code, is amended by adding Section 102.0086 to read as follows:

Sec. 102.0086. CONFIDENTIALITY OF PLEADINGS. (a) This section applies only in a county with a population of 3.4 million or more.

(b) Except as otherwise provided by law, all pleadings and other documents filed with the court in a suit affecting the parent-child relationship are confidential, are excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a party to the suit until after the date of service of citation or the 31st day after the date of filing the suit, whichever date is sooner.

SECTION 4. (a) This Act takes effect September 1, 2003.

(b) Section 6.410, Family Code, as added by this Act, applies only to a suit for dissolution of a marriage filed on or after the effective date of this Act. A suit for dissolution of a marriage filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(c) Section 82.010, Family Code, as added by this Act, applies only to an application under Title 4, Family Code, for a protective order or temporary ex parte order filed on or after the effective date of this Act. An application for a protective order or temporary ex parte order filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(d) Section 102.0086, Family Code, as added by this Act, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

Passed by the House on April 30, 2003, by a non-record vote; passed by the Senate on May 27, 2003: Yeas 31, Nays 0.

Approved June 20, 2003.

Effective September 1, 2003.

CHAPTER 1315

H.B. No. 1549

AN ACT

relating to changes required in election laws to implement the federal Help America Vote Act of 2002.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 13.002(c), Election Code, is amended to read as follows:

(c) A registration application must include:

- (1) the applicant's first name, middle name, if any, last name, and former name, if any;
- (2) the month, day, and year of the applicant's birth;
- (3) a statement that the applicant is a United States citizen;

- (4) a statement that the applicant is a resident of the county;
- (5) a statement that the applicant has not been determined mentally incompetent by a final judgment of a court;
- (6) a statement that the applicant has not been finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001;
- (7) the applicant's residence address or, if the residence has no address, the address at which the applicant receives mail and a concise description of the location of the applicant's residence;
- (8) *the following information:*
 - (A) *the applicant's Texas driver's license number or the number of a personal identification card issued by the Department of Public Safety;*
 - (B) *if the applicant has not been issued a number described by Paragraph (A), the last four digits of the applicant's social security number; or*
 - (C) *a statement by the applicant that the applicant has not been issued a number described by Paragraph (A) or (B);*
- (9) if the application is made by an agent, a statement of the agent's relationship to the applicant; and
- (10) [(9)] the city and county in which the applicant formerly resided.

SECTION 2. Section 13.121(a), Election Code, is amended to read as follows:

(a) The officially prescribed application form for registration by mail must be in the form of a business reply postcard, unless another form or system is used under Subsection (b), with postage paid by the state. ~~[The form may not be larger than the form in use immediately prior to January 1, 1986.]~~ The secretary of state shall design the form to enhance the legibility of its contents.

SECTION 3. Section 13.122, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

- (a) In addition to the other statements and spaces for entering information that appear on an officially prescribed registration application form, each official form must include:
 - (1) the statement: "I understand that giving false information to procure a voter registration is perjury and a crime under state and federal law.";
 - (2) a space for the applicant's registration number;
 - (3) a space for the applicant's Texas driver's license number or number of a personal identification card issued by the Department of Public Safety;
 - (4) a space for the applicant's telephone number;
 - (5) a space for the applicant's social security number;
 - (6) a space for the applicant's sex;
 - (7) a statement indicating that the furnishing of the applicant's ~~[driver's license number, personal identification card number,]~~ telephone number~~[-, social security number,]~~ and sex is optional;
 - (8) a space or box for indicating whether the applicant or voter is submitting new registration information or a change in current registration information;
 - (9) a statement instructing a voter who is using the form to make a change in current registration information to enter the voter's name and the changed information in the appropriate spaces on the form;
 - (10) a statement that if the applicant declines to register to vote, that fact will remain confidential and will be used only for voter registration purposes;
 - (11) a statement that if the applicant does register to vote, information regarding the agency or office to which the application is submitted will remain confidential and will be used only for voter registration purposes; and
 - (12) any other voter registration information required by federal law or considered appropriate and required by the secretary of state.

(d) *The secretary of state shall prescribe procedures to inform an applicant who applies for registration by mail of the requirement that before voting for the first time in an election for federal office an applicant must provide a copy of a document described by Section 63.0101 that establishes the applicant's identity. The procedures must include providing an instructional sheet to be distributed with the official registration application form describing the requirement and a method by which an applicant may submit the document along with the official registration application form. This subsection expires on the earlier of:*

(1) *January 1, 2006; or*

(2) *the date the secretary of state certifies that the statewide computerized voter registration list has been implemented.*

SECTION 4. Section 18.005(a), Election Code, is amended to read as follows:

(a) Each original and supplemental list of registered voters must:

(1) contain the voter's name, residence address, date of birth, and registration number as provided by the statewide computerized voter registration list;

(2) be arranged alphabetically by voter name; ~~[and]~~

(3) contain the notation required by Section 15.111; *and*

(4) *until Section 13.122(d) expires, identify each voter registered by mail for the first time who failed to provide a copy of a document described by Section 63.0101 establishing the voter's identity at the time of registration.*

SECTION 5. Effective January 1, 2006, the heading to Subchapter C, Chapter 18, Election Code, is amended to read as follows:

SUBCHAPTER C. STATEWIDE VOTER REGISTRATION
~~LIST [REGISTRATION SERVICE PROGRAM]~~

SECTION 6. Effective January 1, 2006, Section 18.061, Election Code, is amended to read as follows:

Sec. 18.061. ~~STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST [REGISTRATION SERVICE PROGRAM AUTHORIZED].~~ (a) The secretary of state shall ~~[may]~~ implement and maintain a statewide computerized voter registration list that serves as the single system for storing and managing the official list of registered voters in the state ~~[registration service program to assist registrars in maintaining accurate lists of registered voters].~~

(b) *The statewide computerized voter registration list [A service program] must [include]:*

(1) *contain the name and registration information of each voter registered in the state [obtaining registration information from registrars and other available sources for a master file on registered voters];*

(2) *assign a unique identifier to each registered voter [periodically obtaining information from registrars and other available sources for the following purposes:*

~~[(A) to aid in determining the proper status of voters on the lists of registered voters; and~~

~~[(B) to aid in ascertaining the proper registration information for each registered voter]; and~~

(3) *be available to any election official in the state through immediate electronic access [furnishing information that may be useful to the registrars in the performance of their official duties].*

(c) *Under procedures prescribed by the secretary of state, each voter registrar shall provide to the secretary of state on an expedited basis the information necessary to maintain the registration list established under Subsection (a). The procedures shall provide for the electronic submission of the information.*

(d) The secretary of state may contract with counties to provide them with electronic data services to facilitate the implementation of the statewide computerized voter registration list ~~[service program]~~. The secretary shall use funds collected under the contracts to defray

expenses incurred in implementing the *statewide computerized voter registration list* [~~service program~~].

SECTION 7. Effective January 1, 2006, Section 18.064, Election Code, is amended to read as follows:

Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar fails to substantially comply with Section 15.083 [~~14.025~~], 16.032, 18.042, or 18.061 [~~18.063~~] or with rules adopted by the secretary of state implementing the *statewide computerized voter registration list* [~~registration service program~~], the registrar is not entitled to receive state funds for financing voter registration in the county.

SECTION 8. Effective January 1, 2006, Section 18.065(a), Election Code, is amended to read as follows:

(a) The secretary of state shall monitor each registrar for substantial compliance with Sections 15.083 [~~14.025~~], 16.032, 18.042, and 18.061 [~~18.063~~] and with rules implementing the *statewide computerized voter registration list* [~~registration service program~~].

SECTION 9. Effective January 1, 2006, the heading to Section 18.066, Election Code, is amended to read as follows:

Sec. 18.066. AVAILABILITY OF STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

SECTION 10. Effective January 1, 2006, Section 18.066(a), Election Code, is amended to read as follows:

(a) The secretary of state shall furnish information in the *statewide computerized voter registration list* [~~state master file~~] to any person on request not later than the 15th day after the date the request is received.

SECTION 11. Effective January 1, 2006, the heading to Section 18.067, Election Code, is amended to read as follows:

Sec. 18.067. UNLAWFUL USE OF STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

SECTION 12. Section 19.004, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) *Except as provided by Subsection (d), state* [~~State~~] funds disbursed under this chapter may be used only to defray expenses of the registrar's office in connection with voter registration, including additional expenses related to:

(1) implementation of the National Voter Registration Act of 1993 (42 U.S.C. Section 1973gg et seq.); and

(2) complying with the weekly updating requirements prescribed by Section 18.063.

(d) *If the secretary of state determines that federal matching funds are available under the federal Help America Vote Act of 2002, the secretary of state shall certify to the comptroller the amount of state funds required to qualify for the maximum amount of federal matching funds. On receipt of the certification, the comptroller shall deposit from funds otherwise available under this chapter an amount equal to the certified amount in the election improvement fund established under Section 31.011.*

SECTION 13. Effective September 1, 2003, Chapter 31, Election Code, is amended by adding Sections 31.010 and 31.011 to read as follows:

Sec. 31.010. IMPLEMENTATION OF FEDERAL HELP AMERICA VOTE ACT. (a) *The secretary of state may adopt rules as necessary to implement the federal Help America Vote Act of 2002.*

(b) *The secretary of state shall adopt rules establishing state-based administrative complaint procedures to remedy grievances that meet the requirements of Section 402(a) of the federal Help America Vote Act of 2002.*

Sec. 31.011. ELECTION IMPROVEMENT FUND. (a) *The election improvement fund is created as a dedicated account in the general revenue fund and consists of federal funds designated for election improvement, matching funds from the state or a political subdivision, and depository interest earned on the assets of the fund.*

(b) *Money in the fund may be appropriated only to provide funding for the following purposes:*

- (1) *to improve election administration at the state and local level;*
- (2) *to make grants to local governments for the improvement or replacement of voting systems;*
- (3) *to create a single uniform official centralized interactive voter registration database;*
and
- (4) *to comply with other election requirements of the federal government.*

(c) *The fund is exempt from the application of Section 403.095, Government Code.*

SECTION 14. Section 41.001(a), Election Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

- (1) the first Saturday in February;
- (2) the *third* ~~first~~ Saturday in May;
- (3) the second Saturday in September; or
- (4) the first Tuesday after the first Monday in November.

SECTION 15. Section 41.0052(a), Election Code, is amended to read as follows:

(a) The governing body of a political subdivision other than a county may, not later than December 31, 2004 ~~[1999]~~, change the date on which it holds its general election for officers to another authorized uniform election date. ~~[An election on the new date may not be held before 2000.]~~

SECTION 16. Section 41.007(b), Election Code, is amended to read as follows:

(b) The runoff primary election date is the *third* ~~second~~ Tuesday in April following the general primary election.

SECTION 17. Section 52.008(a), Election Code, is amended to read as follows:

(a) The authority responsible for procuring the election supplies *shall* ~~may~~ have a supply of sample ballots printed.

SECTION 18. Section 52.074, Election Code, is amended to read as follows:

Sec. 52.074. *PROVISIONAL BALLOT [STUB] FOR CERTAIN VOTERS.* ~~[(a)]~~ The authority responsible for having the official ballot prepared shall have a *provisional* ~~[detached]~~ ballot ~~[stub]~~ prepared *in a form approved by the secretary of state* ~~[as provided by this section]~~ for use by a voter who executes an affidavit in accordance with Section 63.011 ~~[63.010]~~.

~~[(b) The ballot stub shall be in a form approved by the secretary of state and must include:~~

- ~~[(1) a space for entering the number matching the corresponding ballot number;~~
- ~~[(2) spaces for entering the designation of the nature of the election and the date of the election;~~
- ~~[(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and~~
- ~~[(4) a space for the voter's signature.]~~

SECTION 19. Section 61.005, Election Code, is amended to read as follows:

Sec. 61.005. *SECURITY OF BALLOTS, BALLOT BOXES, [STUBS,] AND ENVELOPES.* (a) From the time a presiding judge receives the official ballots for an election until the precinct returns for that election have been certified, the presiding judge shall take the precautions necessary to prevent access to the ballots, ballot boxes, ~~[ballot stubs,]~~ and ~~[stub]~~ envelopes *used for provisional ballots* in a manner not authorized by law.

(b) The ballots, ballot boxes, ~~[ballot stubs,]~~ and ~~[stub]~~ envelopes *used for provisional ballots* at a polling place shall be in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified.

(c) A presiding election judge commits an offense if the judge fails to prevent another person from handling a ballot box containing voters' marked ballots or an envelope containing

a voter's provisional ballot [~~voters' signed ballot stubs~~] in an unauthorized manner or from making an unauthorized entry into the ballot box or envelope. An offense under this subsection is a Class A misdemeanor.

SECTION 20. Subchapter A, Chapter 61, Election Code, is amended by adding Section 61.012 to read as follows:

Sec. 61.012. ACCESS BY PERSONS WITH DISABILITIES. (a) Not later than January 1, 2006, each polling place must provide at least one voting station that:

(1) complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and

(2) provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

(b) Subsection (a) applies only to a polling place that uses an electronic voting system unless the secretary of state certifies that federal law requires the application of Subsection (a) to all forms of voting at a polling place.

SECTION 21. Section 62.006, Election Code, is amended to read as follows:

Sec. 62.006. PLACING BOX ~~[AND ENVELOPE]~~ FOR DEPOSIT OF MARKED BALLOTS ~~[AND STUBS]~~. The ballot box to be used by the voters to deposit marked ballots shall be locked. The ballot box and *the box used for the deposit of provisional ballots* ~~[envelope no. 5]~~ shall be placed where they will be in plain view of the election officers, watchers, and persons waiting to vote.

SECTION 22. Section 62.009(c), Election Code, is amended to read as follows:

(c) The *provisional* ballots ~~[with stubs]~~ shall be placed separately from the regular ballots.

SECTION 23. Section 62.011, Election Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The secretary of state shall prescribe the form and content of the instruction poster. *If it is not practical to fit all of the information required by this section on a single poster, the secretary of state may provide for the use of two or more posters to convey the information.*

(c) The poster must include instructions applicable to the election on:

- (1) marking and depositing the ballot;
- (2) voting for a write-in candidate;
- (3) casting a straight-party vote;
- (4) *casting a provisional ballot;*
- (5) *until the expiration of Section 13.122(d), voting for the first time by a person who registered by mail; and*
- (6) ~~[(4)]~~ securing an additional ballot if the voter's original ballot is spoiled.

(d) *The poster must also include the following information:*

- (1) *the date of the election and the hours during which the polling place is open;*
- (2) *general information on voting rights under state and federal laws, including information on the right of an individual to cast a provisional ballot and the individuals to contact if a person believes these rights have been violated; and*
- (3) *general information on state and federal laws that prohibit acts of fraud or misrepresentation.*

SECTION 24. Section 62.012, Election Code, is amended to read as follows:

Sec. 62.012. POSTING SAMPLE BALLOT. ~~An [If sample ballots are provided for a polling place, an]~~ election officer shall post a sample ballot in one or more locations in the polling place where it can be read by persons waiting to vote.

SECTION 25. Section 63.008, Election Code, is amended to read as follows:

Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST. (a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter is offering to vote, shall be

accepted for voting if the voter executes an affidavit stating that the voter does not have the voter's voter registration certificate in the voter's possession at the polling place at the time of offering to vote and[;

[~~(1)~~] the voter presents proof of identification in a form described by Section 63.0101[; ~~or~~

[~~(2) the affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter~~].

(b) If the requirements prescribed by Subsection (a) are not met, the voter may ~~[not]~~ be accepted for *provisional voting only under Section 63.011*[~~, and an election officer shall indicate beside the voter's name on the list of registered voters that the voter was rejected under this section~~].

SECTION 26. Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. **VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.** (a) Except as provided by Subsection (b), a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for *provisional voting* if the voter [~~presents proof of identification and~~] executes an affidavit in accordance with Section *63.011* [~~63.010~~].

(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county *and the person presents proof of identification*, the affidavits required by Sections 63.007 and 63. 008 are substituted for the affidavit required by Section *63.011* [~~63.010~~] in complying with that section. After the voter is accepted under this subsection, an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 27. Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. **DOCUMENTATION OF PROOF OF IDENTIFICATION.** The following documentation is acceptable as proof of identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;

(2) a form of identification containing the person's photograph that establishes the person's identity;

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

(5) a United States passport issued to the person;

(6) [~~pre-printed checks containing the person's name that are issued for a financial institution doing business in this state;~~

[~~(7)~~] official mail addressed to the person by name from a governmental entity;

(7) *a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter* [~~(8) two other forms of identification that establish the person's identity~~]; or

(8) [~~(9)~~] any other form of identification prescribed by the secretary of state.

SECTION 28. Chapter 63, Election Code, is amended by adding Section 63.011 to read as follows:

Sec. 63.011. **PROVISIONAL VOTING.** (a) *A person to whom Section 63.008(b) or 63.009(a) applies may cast a provisional ballot if the person executes an affidavit stating that the person:*

(1) *is a registered voter in the precinct in which the person seeks to vote; and*

(2) *is eligible to vote in the election.*

(b) *A form for the affidavit shall be printed on an envelope in which the provisional ballot voted by the person may be placed and must include a space for entering the identification number of the provisional ballot voted by the person. The affidavit form may include space*

for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

(c) After executing the affidavit, the person shall be given a provisional ballot for the election. An election officer shall record the number of the ballot on the space provided on the affidavit.

(d) An election officer shall enter “provisional vote” on the poll list beside the name of each voter who is accepted for voting under this section.

(e) A person who is permitted under a state or federal court order to cast a ballot in an election for a federal office after the time allowed by Subchapter B, Chapter 41, must cast the ballot as a provisional vote in the manner required by this section.

SECTION 29. Section 63.012(a), Election Code, is amended to read as follows:

(a) An election officer commits an offense if the officer knowingly:

(1) permits an ineligible voter to vote *other than as provided by Section 63.011* [~~without having been challenged~~]; or

(2) refuses to accept a person for voting whose acceptance is required by this code.

SECTION 30. Section 64.001, Election Code, is amended to read as follows:

Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT[; ~~DEPOSIT OF STUB~~].

(a) After a voter is accepted for voting, the voter shall select a ballot, go to a voting station, and prepare the ballot[; ~~except as provided by Subsection (b)~~].

(b) A voter who executes an affidavit in accordance with Section 63.011 [~~63.010~~] shall select a provisional ballot [~~with a stub and, before going to a voting station;~~

[~~(1) unclip the stub and envelope from the ballot;~~

[~~(2) sign the stub and enclose it in the envelope; and~~

[~~(3) seal the envelope and give it to an election officer.~~

[~~(e) The election officer shall deposit the ballot stub enclosed in its envelope in envelope no. 5].~~

SECTION 31. Section 64.008, Election Code, is amended to read as follows:

Sec. 64.008. DEPOSITING BALLOT. (a) *Except as provided by Subsection (b), after* [~~After~~] a voter has marked the ballot, the voter shall fold the ballot to conceal the way it is marked but to expose the presiding judge’s signature, and shall deposit it in the ballot box used for the deposit of marked ballots.

(b) *After a voter has marked a provisional ballot, the voter shall enclose the ballot in the envelope on which the voter’s executed affidavit is printed. The person shall seal the envelope and deposit it in a box available for the deposit of provisional ballots.*

(c) *At the time a person casts a provisional ballot under Subsection (b), an election officer shall give the person written information describing how the person may use the free access system established under Section 65.059 to obtain information on the disposition of the person’s vote.*

SECTION 32. Sections 65.001–65.015, Election Code, are designated as Subchapter A, Chapter 65, Election Code, and a heading is added to that subchapter to read as follows:

SUBCHAPTER A. COUNTING VOTES GENERALLY

SECTION 33. Section 65.009, Election Code, is amended by adding Subsection (d) to read as follows:

(d) *The intent of the voter in marking a ballot may be determined by:*

(1) *a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;*

(2) *an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;*

(3) *a line drawn through:*

(A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;

(B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or

(C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or

(4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.

SECTION 34. Section 65.010(a), Election Code, is amended to read as follows:

(a) The following ballots may not be counted:

(1) a ballot that is not provided to the voter at the polling place;

(2) two or more ballots that are folded together in a manner indicating that they were folded together when deposited in the ballot box;

(3) a write-in envelope containing a write-in vote without an attached ballot;

(4) a ballot that has not been deposited in the ballot box used for the deposit of marked ballots; or

(5) a provisional ballot that is not accepted under Subchapter B ~~[with an unsigned stub]~~.

SECTION 35. Chapter 65, Election Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. VERIFICATION AND COUNTING OF PROVISIONAL BALLOTS

Sec. 65.051. *DUTY OF EARLY VOTING BALLOT BOARD.* (a) The early voting ballot board shall verify and count provisional ballots as provided by this subchapter not later than the seventh day after the date of an election.

(b) Except as provided by this subchapter, the conduct of the board is governed by the same procedures as are provided by Chapter 87.

Sec. 65.052. *DUTY OF VOTER REGISTRAR.* The secretary of state shall prescribe procedures by which the voter registrar of the county in which a provisional ballot is cast shall provide assistance to the early voting ballot board in executing its authority under this subchapter.

Sec. 65.053. *DELIVERY OF PROVISIONAL BALLOTS.* The presiding judge of an election precinct shall deliver in person to the general custodian of election records the box containing each envelope containing a provisional ballot that was cast in the precinct. The secretary of state shall prescribe procedures by which the early voting ballot board may have access to the provisional ballots as necessary to implement this subchapter.

Sec. 65.054. *ACCEPTING PROVISIONAL BALLOT.* (a) The early voting ballot board shall examine each affidavit executed under Section 63.011 and determine whether to accept the provisional ballot of the voter who executed the affidavit.

(b) A provisional ballot may be accepted only if the board determines that, from the information in the affidavit or contained in public records, the person is eligible to vote in the election.

(c) If a provisional ballot is accepted, the board shall enter the voter's name on a list of voters whose provisional ballots are accepted.

(d) If a provisional ballot is rejected, the board shall indicate the rejection by marking "rejected" on the envelope containing the provisional ballot.

Sec. 65.055. *DISPOSITION OF ACCEPTED PROVISIONAL BALLOT AND AFFIDAVIT.* (a) The early voting ballot board shall open each envelope containing an accepted provisional ballot without defacing the affidavit located on the outside of the envelope and shall remove the ballot.

(b) The board shall place the ballot in a ballot box containing all the provisional ballots accepted for voting in the election.

(c) For each accepted provisional ballot, the board shall place the corresponding envelope on which is printed the voter's affidavit executed under Section 63.011 in a sealed envelope and shall deliver the envelope to the general custodian of election records, to be retained for the period for preserving precinct election returns.

Sec. 65.056. **DISPOSITION OF REJECTED PROVISIONAL BALLOT.** (a) If the affidavit on the envelope of a rejected provisional ballot contains the information necessary to enable the person to register to vote under Chapter 13, the voter registrar shall make a copy of the affidavit under procedures prescribed by the secretary of state. The voter registrar shall treat the copy as an application for registration under Chapter 13.

(b) The early voting ballot board shall place the envelopes containing rejected provisional ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary.

(c) The envelope for the rejected provisional ballots must indicate the date and identity of the election, be labeled "rejected provisional ballots," and be signed by the board's presiding judge.

(d) A board member shall deliver the envelope containing the rejected provisional ballots to the general custodian of election records to be preserved for the period for preserving the precinct election records. The envelope may not be placed in the box containing the accepted provisional ballots.

Sec. 65.057. **PROCESSING ACCEPTED PROVISIONAL BALLOTS.** (a) The early voting ballot board shall count accepted provisional ballots as follows:

(1) for ballots to be counted manually, in the manner provided by Subchapter D, Chapter 87;

(2) for ballots to be counted by automatic tabulating equipment at a central counting station, in the manner provided by Subchapter F, Chapter 87; and

(3) for ballots to be counted by any other means, in the manner provided by rules adopted by the secretary of state.

(b) On counting the ballots under this section, the board shall report the results to the local canvassing authority for the election.

Sec. 65.058. **PRESERVATION OF PROVISIONAL VOTING RECORDS GENERALLY.** The returns of provisional ballots that are accepted, the accepted ballots, and other provisional voting records shall be preserved after the election in the same manner as the corresponding precinct election returns.

Sec. 65.059. **NOTICE TO PROVISIONAL VOTER.** The secretary of state shall prescribe procedures to implement a system to allow a person who casts a provisional ballot under Section 63.011 to obtain access free of charge to information on the disposition of the person's ballot. The system:

(1) must allow the person to determine whether the person's ballot was counted, and, if the person's ballot was not accepted, must indicate the reason why;

(2) must provide the information only to the person who cast the provisional ballot; and

(3) may involve the use of a toll-free telephone number or the Internet.

SECTION 36. Section 66.003, Election Code, is amended to read as follows:

Sec. 66.003. **ENVELOPES FOR DISTRIBUTION OF RECORDS.** (a) Four [Five] envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;

(2) "Envelope No. 2," addressed to the general custodian of election records;

(3) "Envelope No. 3," addressed to the presiding judge; and

(4) "Envelope No. 4," addressed to the voter registrar; and

[(5) "Envelope No. 5," addressed to the general custodian of election records].

SECTION 37. Section 66.021(b), Election Code, is amended to read as follows:

(b) The judge shall seal envelopes no. 1, no. 2, *and* no. 4~~[, and no. 5]~~ and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.

SECTION 38. Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

- (1) the precinct list of registered voters;
- (2) the registration correction list;
- (3) the registration omissions list;
- (4) any statements of residence executed under Section 63.0011; and
- (5) any affidavits executed under Section 63.007 or *63.011* ~~[63.010]~~.

SECTION 39. Section 66.051(b), Election Code, is amended to read as follows:

(b) The presiding judge shall deliver envelope no. 2, ~~[envelope no. 5,]~~ ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

SECTION 40. Sections 66.058(b), (c), and (d), Election Code, are amended to read as follows:

(b) The voted ballots ~~[and ballot stubs]~~ shall be preserved securely in a locked room in the locked ballot box ~~[or sealed envelope, as applicable,]~~ in which they are delivered to the general custodian of election records. Except as permitted by this code, a ballot box containing voted ballots ~~[or an envelope containing ballot stubs]~~ may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box containing voted ballots ~~[or an envelope containing ballot stubs]~~, when the purpose for the entry is fulfilled, the box ~~[or envelope]~~ shall be relocked ~~[or resealed, as applicable]~~, and the box and key ~~[or envelope]~~ returned to the custodian.

(d) A custodian of a ballot box containing voted ballots ~~[or an envelope containing ballot stubs]~~ commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

- (1) makes an unauthorized entry into the box ~~[or envelope]~~; or
- (2) fails to prevent another person from handling the box ~~[or envelope]~~ in an unauthorized manner or from making an unauthorized entry into the box ~~[or envelope]~~.

SECTION 41. Section 66.059, Election Code, is amended to read as follows:

Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS. (a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots ~~[or an envelope containing ballot stubs]~~ is in custody may order the box ~~[or envelope]~~ opened to retrieve an election record that was erroneously placed in the box ~~[or envelope]~~.

(b) The district judge shall post a notice of the date, hour, and place for opening the box ~~[or envelope]~~ on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision served by the general custodian of election records. The notice must remain posted continuously for the 24 hours immediately preceding the hour set for opening the box ~~[or envelope]~~.

(c) Any interested person may observe the opening of the box ~~[or envelope]~~.

(d) The district judge shall issue the orders necessary to safeguard the contents of a ballot box ~~[or envelope]~~ opened under this section.

SECTION 42. Section 67.003, Election Code, is amended to read as follows:

Sec. 67.003. TIME FOR LOCAL CANVASS. Each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer:

- (1) on the *eighth* ~~[seventh]~~ day after election day for the general election for state and county officers; or
- (2) not earlier than the *eighth* ~~[third]~~ day or later than the *11th* ~~[sixth]~~ day after election day for an election other than the general election for state and county officers.

SECTION 43. Section 86.002, Election Code, is amended by adding Subsection (f) to read as follows:

(f) For an election for a federal office, if the list of registered voters indicates that the voter did not provide a copy of a document described by Section 63.0101 establishing the voter's identity at the time of initial registration by mail, the clerk shall provide with the balloting materials notice to the voter that the voter must provide a copy of a document described by Section 63.0101 establishing the voter's identity when returning the ballot. The secretary of state shall prescribe the form of the notice. This subsection expires on the earlier of:

- (1) January 1, 2006; or*
- (2) the date the secretary of state certifies that the statewide computerized voter registration list has been implemented.*

SECTION 44. Section 86.005, Election Code, is amended by adding Subsection (f) to read as follows:

(f) If the voter is required to provide a copy of a document described by Section 63.0101 establishing the voter's identity, the voter shall include the copy in the official carrier envelope. This subsection expires on the expiration of Section 86.002(f).

SECTION 45. Subchapter C, Chapter 87, Election Code, is amended by adding Section 87.0411 to read as follows:

Sec. 87.0411. ACCEPTANCE OF NEW VOTER IN ELECTION FOR FEDERAL OFFICE. (a) A ballot for which notice was provided under Section 86.002(f) may be accepted only if:

- (1) the voter provided the required documentation of the voter's identity; or*
- (2) the early voting ballot board determines that the person is eligible to vote.*

(b) This section expires on the expiration of Section 86.002(f).

SECTION 46. Section 101.005(c), Election Code, is amended to read as follows:

(c) An application shall be treated as if it requests a ballot for:

- (1) a runoff election that results from an election for which a ballot is requested; and*
- (2) each election for a federal office, including a primary or runoff election, that occurs on or before the date of the second general election for state and county officers that occurs after the date the application is submitted.*

SECTION 47. Section 101.006(a), Election Code, is amended to read as follows:

(a) The submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant only for the purpose of voting in the election for which a ballot is requested and each election for a federal office that occurs on or before the date of the second general election for state and county officers that occurs after the date the application is submitted.

SECTION 48. Chapter 101, Election Code, is amended by adding Section 101.013 to read as follows:

Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. The secretary of state is designated as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), as amended.

SECTION 49. Section 122.001, Election Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A voting system may not be used in an election unless the system:

- (1) preserves the secrecy of the ballot;*
- (2) is suitable for the purpose for which it is intended;*
- (3) operates safely, efficiently, and accurately and complies with the error rate standards of the voting system standards adopted by the Federal Election Commission;*
- (4) is safe from fraudulent or unauthorized manipulation;*

- (5) permits voting on all offices and measures to be voted on at the election;
- (6) prevents counting votes on offices and measures on which the voter is not entitled to vote;
- (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;
- (8) prevents counting a vote on the same office or measure more than once;
- (9) permits write-in voting;
- (10) is capable of permitting straight-party voting; and
- (11) is capable of providing records from which the operation of the voting system may be audited.

(d) *Effective January 1, 2006, a voting system may not be used in an election if the system uses:*

- (1) *mechanical voting machines; or*
- (2) *a punch-card ballot or similar form of tabulating card.*

(e) *For an election for federal office in which a state or federal court order has extended the time for voting beyond the time allowed by Subchapter B, Chapter 41, a voting system must provide a separate count of the votes cast after the time allowed by that subchapter.*

SECTION 50. Section 124.006, Election Code, is amended to read as follows:

Sec. 124.006. IMPLEMENTATION OF PROVISIONAL BALLOT [STUB] SYSTEM. The secretary of state shall prescribe the form of a *provisional ballot* [~~stub and ballot for use with a stub~~] and the necessary procedures to implement the *casting of a provisional ballot as described by Section 63.011 and the verification and processing of provisional ballots under Subchapter B, Chapter 65, for* [~~ballot stub system prescribed by Section 52.074 for use with~~] each voting system used in this state.

SECTION 51. Section 127.130, Election Code, is amended by adding Subsection (c–1) to read as follows:

(c–1) *In any manual count conducted under this code, an irregularly marked vote on a ballot on which a voter indicates a vote by making a mark on the ballot is considered in the same manner as provided by Section 65.009.*

SECTION 52. Section 172.116(b), Election Code, is amended to read as follows:

(b) The committee shall convene to conduct the local canvass at the county seat not earlier than 6 p.m. on the *second* [~~first~~] Thursday or later than 1 p.m. on the *second* [~~first~~] Friday after election day at the hour specified by the county chair.

SECTION 53. Sections 203.012(a) and (b), Election Code, are amended to read as follows:

(a) The commissioners court shall convene to conduct the local canvass not later than the *10th* [~~third~~] day after election day.

(b) The governor shall conduct the state canvass not later than the *14th* [~~seventh~~] day after election day.

SECTION 54. Section 213.007(a), Election Code, is amended to read as follows:

(a) On presentation by a recount committee chair of a written order signed by the recount supervisor, the custodian of voted ballots, voting machines or test materials or programs used in counting electronic voting system ballots shall make the ballots, machines, or materials or programs, *including the records from which the operation of the voting system may be audited*, available to the committee.

SECTION 55. Section 221.008, Election Code, is amended to read as follows:

Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT. A tribunal hearing an election contest may cause secured ballot boxes, [~~envelopes,~~] voting machines, voting devices, or other equipment used in the election to be unsecured to determine the correct vote count or any other fact that the tribunal considers pertinent to a fair and just disposition of the contest.

SECTION 56. Sections 273.041, 273.042, and 273.043, Election Code, are amended to read as follows:

Sec. 273.041. **REQUEST TO EXAMINE BALLOTS.** In the investigation of criminal conduct in connection with an election, a grand jury, on finding probable cause to believe an offense was committed, may request a district judge of the county served by the grand jury to order an examination of the voted ballots ~~[and the ballot stubs]~~ in the election.

Sec. 273.042. **ORDER BY DISTRICT JUDGE.** On request of a grand jury for an examination of voted ballots ~~[and ballot stubs]~~, a district judge may order the custodian of the ballots ~~[and ballot stubs]~~ and the custodian of the keys to the ballot boxes to deliver the ballot boxes ~~and the [,] keys[, and envelopes]~~ to the grand jury.

Sec. 273.043. **CONDUCT OF EXAMINATION.** The examination of ballots ~~[and ballot stubs]~~ under this subchapter shall be conducted in secret before the grand jury.

SECTION 57. (a) Sections 62.0081, 63.010, 65.005(d), 66.0242, and 66.058(h) and Chapter 88, Election Code, are repealed.

(b) Effective January 1, 2006, Sections 18.062, 18.063, and 122.0011, Election Code, are repealed.

SECTION 58. Except as otherwise provided by this Act, this Act takes effect January 1, 2004.

Passed by the House on April 24, 2003, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1549 on May 28, 2003, by a non-record vote; passed by the Senate, with amendments, on May 27, 2003: Yeas 31, Nays 0.

Approved June 21, 2003.

Effective January 1, 2004, except §§ 5 through 11, effective January 1, 2006 and § 13, effective September 1, 2003.

CHAPTER 1316

H.B. No. 1695

AN ACT

relating to certain election processes and procedures.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1.006, Election Code, is amended to read as follows:

Sec. 1.006. **EFFECT OF WEEKEND OR HOLIDAY.** (a) If the last day for performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code.

(b) *If the last day for performance of an act is extended under Subsection (a), the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures, that are expressly required to be made on a date or at a time determined in relation to the last day for performance of the act.*

(c) *A declaration of ineligibility of a candidate is considered to be the performance of an act under this section for purposes of causing the candidate's name to be omitted from the ballot.*

(d) *The filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act under this section for purposes of creating a vacancy to be filled at a subsequent election.*

(e) *The death of a person is not considered to be the performance of an act under this section.*

SECTION 2. Section 2.025, Election Code, is amended to read as follows: